

1 **SHB 1002 - H AMD 0026 ADOPTED 2/26/03**
2 By Representative Hinkle

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Automotive mercury switch" includes a convenience switch,
8 such as a switch for a trunk or hood light, and a mercury switch in
9 antilock brake systems.

10 (2) "Department" means the department of ecology.

11 (3) "Director" means the director of the department of ecology.

12 (4) "Health care facility" includes a hospital, nursing home,
13 extended care facility, long-term care facility, clinical or medical
14 laboratory, state or private health or mental institution, clinic, or
15 health maintenance organization.

16 (5) "Manufacturer" includes any person, firm, association,
17 partnership, corporation, governmental entity, organization, or joint
18 venture that produces a mercury-added product or an importer or
19 domestic distributor of a mercury-added product produced in a foreign
20 country. In the case of a multicomponent product containing mercury,
21 the manufacturer is the last manufacturer to produce or assemble the
22 product. If the multicomponent product or mercury-added product is
23 produced in a foreign country, the manufacturer is the first importer
24 or domestic distributor.

25 (6) "Mercury-added button-cell battery" means a button-cell
26 battery to which the manufacturer intentionally introduces mercury for
27 the operation of the battery.

28 (7) "Mercury-added novelty" means a mercury-added product intended
29 mainly for personal or household enjoyment or adornment. Mercury-added
30 novelties include, but are not limited to, items intended for use as

1 practical jokes, figurines, adornments, toys, games, cards, ornaments,
2 yard statues and figures, candles, jewelry, holiday decorations, items
3 of apparel, and other similar products. Mercury-added novelty does not
4 include games, toys, or products that require a button-cell or lithium
5 battery, liquid crystal display screens, or a lamp that contains
6 mercury.

7 (8) "Mercury-added product" means a product, commodity, or
8 chemical, or a product with a component that contains mercury or a
9 mercury compound intentionally added to the product, commodity, or
10 chemical in order to provide a specific characteristic, appearance, or
11 quality, or to perform a specific function, or for any other reason.
12 Mercury-added products include, but are not limited to, mercury
13 thermometers, mercury thermostats, and mercury switches in motor
14 vehicles.

15 (9) "Mercury manometer" means a mercury-added product that is used
16 for measuring blood pressure.

17 (10) "Mercury thermometer" means a mercury-added product that is
18 used for measuring temperature.

19 (11) "Retailer" means a retailer of a mercury-added product.

20 NEW SECTION. **Sec. 2.** (1) Effective January 1, 2004, a
21 manufacturer, wholesaler, or retailer may not knowingly sell at retail
22 a fluorescent lamp if the fluorescent lamp contains mercury and was
23 manufactured after November 30, 2003, unless the fluorescent lamp is
24 labeled in accordance with the guidelines listed under subsection (2)
25 of this section. Primary responsibility for affixing labels required
26 under this section is on the manufacturer, and not on the wholesaler or
27 retailer.

28 (2) Except as provided in subsection (3) of this section, a lamp
29 is considered labeled pursuant to subsection (1) of this section if the
30 lamp has all of the following:

31 (a) A label affixed to the lamp that displays the internationally
32 recognized symbol for the element mercury; and

33 (b) A label on the lamp's packaging that: (i) Clearly informs the
34 purchaser that mercury is present in the item; (ii) explains that the
35 fluorescent lamp should be disposed of according to applicable federal,

1 state, and local laws; and (iii) provides a toll-free telephone number,
2 and a uniform resource locator internet address to a web site, that
3 contains information on applicable disposal laws.

4 (3) The manufacturer of a mercury-added lamp is in compliance with
5 the requirements of this section if the manufacturer is in compliance
6 with the labeling requirements of another state.

7 (4) The provisions of this section do not apply to products
8 containing mercury-added lamps.

9 NEW SECTION. **Sec. 3.** (1) The department shall develop and
10 implement a state plan for a permanent repository for mercury that is
11 certified under the federal resource conservation and recovery act.
12 The plan must include the identification of local jurisdictions that
13 are willing to host a mercury repository site.

14 (2) Prior to implementing the state plan for a permanent mercury
15 repository under subsection (1) of this section, the department shall
16 report to the legislature the details of the plan and the list of local
17 jurisdictions that are willing to host a mercury repository site.

18 (3) Mercury recovered after the establishment date of a permanent
19 repository under this section may not be sold for reuse.

20 NEW SECTION. **Sec. 4.** The department of health must develop an
21 educational plan for schools, local governments, businesses, and the
22 public on the proper disposal methods for mercury and mercury-added
23 products.

24 NEW SECTION. **Sec. 5.** A school may not purchase for use in a
25 primary or secondary classroom bulk elemental mercury or chemical
26 mercury compounds. By January 1, 2004, all primary and secondary
27 schools in the state must remove and properly dispose of all bulk
28 elemental mercury, chemical mercury, and bulk mercury compounds.

29 NEW SECTION. **Sec. 6.** (1) Effective January 1, 2004, no person
30 may sell, offer for sale, or distribute for sale or use in this state
31 a mercury-added novelty. A manufacturer of mercury-added novelties
32 must notify all retailers that sell the product about the provisions of

1 this section and how to properly dispose of any remaining mercury-added
2 novelty inventory.

3 (2)(a) Effective January 1, 2005, no person may sell, offer for
4 sale, or distribute for sale or use in this state a manometer that
5 contains mercury to any health care facility in this state or a
6 thermometer that contains mercury. This subsection (2)(a) does not
7 apply to:

8 (i) An electronic thermometer with a button cell battery
9 containing mercury;

10 (ii) A thermometer that contains mercury and that is used for food
11 research and development or food processing, including meat, dairy
12 products, and pet food processing;

13 (iii) A thermometer that contains mercury and that is a component
14 of an animal agriculture climate control system or industrial
15 measurement system or for veterinary medicine until such a time as the
16 system is replaced or a nonmercury component for the system or
17 application is available; or

18 (iv) A thermometer or manometer that contains mercury that is used
19 for calibration of other thermometers, manometers, apparatus, or
20 equipment, unless a nonmercury calibration standard is approved for the
21 application by the
22 national institute of standards and technology.

23 (b) A manufacturer of thermometers that contain mercury must
24 notify all retailers that sell the product about the provisions of this
25 section and how to properly dispose of any remaining thermometer
26 inventory.

27 (3) Effective January 1, 2006, no person may sell, install, or
28 reinstall a commercial or residential thermostat that contains mercury
29 unless the manufacturer of the thermostat conducts or participates in
30 a thermostat recovery or recycling program designed to assist
31 contractors in the proper disposal of thermostats that contain mercury
32 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource
33 conservation and recovery act.

34 (4) No person may sell, offer for sale, or distribute for sale or
35 use in this state a motor vehicle manufactured after January 1, 2006,
36 if the motor vehicle contains an automotive mercury switch.

1 (5) Nothing in this section restricts the ability of a
2 manufacturer, importer, or domestic distributor from transporting
3 products through the state, or storing products in the state for later
4 distribution outside the state.

5 NEW SECTION. **Sec. 7.** (1) The department of general
6 administration must, by January 1, 2004, revise its rules, policies,
7 and guidelines to implement the purpose of this chapter.

8 (2) The department of general administration must give priority
9 and preference to the purchase of equipment, supplies, and other
10 products that contain no mercury-added compounds or components, unless:
11 (a) There is no economically feasible nonmercury-added alternative that
12 performs a similar function; or (b) the product containing mercury is
13 designed to reduce electricity consumption by at least forty percent
14 and there is no nonmercury or lower mercury alternative available that
15 saves the same or a greater amount of electricity as the exempted
16 product. In circumstances where a nonmercury-added product is not
17 available, preference must be given to the purchase of products that
18 contain the least amount of mercury added to the product necessary for
19 the required performance.

20 NEW SECTION. **Sec. 8.** The department is authorized to participate
21 in a regional or multistate clearinghouse to assist in carrying out any
22 of the requirements of this chapter. A clearinghouse may also be used
23 for examining notification and label requirements, developing education
24 and outreach activities, and maintaining a list of all mercury-added
25 products.

26 NEW SECTION. **Sec. 9.** A violation of this chapter is punishable
27 by a civil penalty not to exceed one thousand dollars for each
28 violation in the case of a first violation. Repeat violators are
29 liable for a civil penalty not to exceed five thousand dollars for each
30 repeat violation. Penalties collected under this section must be
31 deposited in the state toxics control account created in RCW
32 70.105D.070.

1 NEW SECTION. **Sec. 10.** Nothing in this chapter applies to
2 crematories as that term is defined in RCW 68.04.070.

3 NEW SECTION. **Sec. 11.** Any fiscal impact on the department or the
4 department of health that results from the implementation of this
5 chapter must be paid for out of funds that are appropriated by the
6 legislature from the state toxics control account for the
7 implementation of the department's persistent bioaccumulative toxic
8 chemical strategy.

9 NEW SECTION. **Sec. 12.** Nothing in this chapter applies to
10 prescription drugs regulated by the food and drug administration under
11 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),
12 to biological products regulated by the food and drug administration
13 under the public health service act (42 U.S.C. Sec. 262 et seq.), or to
14 any substance that may be lawfully sold over-the-counter without a
15 prescription under the federal food, drug, and cosmetic act (21 U.S.C.
16 Sec. 301 et seq.).

17 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
18 constitute a new chapter in Title 70 RCW."

19 EFFECT: Requires the Department of Ecology to develop and
20 implement a state plan for a permanent mercury repository, prohibits
21 the reuse of mercury after the permanent repository is established,
22 requires the Department of Health to develop an educational plan on the
23 proper disposal methods for mercury, prohibits schools from purchasing
24 bulk elemental mercury, requires schools to remove and dispose of
25 existing mercury on their facilities, eliminates the requirement that
26 thermostat manufacturers must fund a public education campaign, limits
27 the ban on thermostats to those manufacturers that are not
28 participating in a recovery or recycling program, expressly exempts
29 pharmaceuticals from the bill's provisions, allows mercury-added lamps
30 that are labeled in accordance with the regulations of another state to
31 satisfy the labeling requirements of this bill, exempts products that
32 contain mercury-added lamps from the labeling requirements, and
33 requires that any money spent by the Department of Ecology for this
34 act's implementation be paid for out of appropriations from the state
35 toxics control account for the implementation of a persistent
36 bioaccumulative toxic chemical strategy.